



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

Docket No. USCG-2022-0226

RIN 1625-AA09

Drawbridge Operation Regulation; Milford Haven, Hudgins, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the SR223 (Gwynn’s Island) Bridge, across Milford Haven, mile 0.1, at Hudgins, Virginia. The temporary modification will allow the drawbridge to be maintained in the closed-to-navigation position and is necessary to accommodate bridge maintenance.

DATES: This temporary final rule is effective from December 23, 2022, through 11 p.m. on April 15, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type the docket number USCG-2022-0226 in the “SEARCH” box and click “SEARCH.” In the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or e-mail Ms. Crystal Tucker, Bridge Administration Branch Fifth District, Coast Guard telephone 757-398-6422, email Crystal.k.tucker@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register

NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On June 14, 2022, the Coast Guard published a notice of proposed rulemaking, with a request for comments, entitled Drawbridge Operation Regulation; Milford Haven, Hudgins, VA in the Federal Register 87 FR 35939. There, we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to the bridge maintenance. During the comment period that ended July 1, 2022, we received no comments.

III. Legal Authority and Need for Rule

The SR223 (Gwynn’s Island) Bridge, across Milford Haven, mile 0.1, at Hudgins, Virginia has a vertical clearance of 12 feet above mean high water in the closed position and unlimited vertical clearance above mean high water in the open position. The current operating schedule for the drawbridge is published in 33 CFR 117.5.

This temporary rule is necessary to facilitate safe and effective maintenance of the drawbridge. Under this temporary rule, the drawbridge will be maintained in the closed-to-navigation position twenty-four hours a day, seven days a week. The bridge will not be able to open for emergencies and there is no immediate alternative route for vessels unable to pass through the bridge in the closed position. Vessels that can safely transit through the bridge in the closed position with the reduced clearance must provide at least a thirty-minute notice to allow for navigation safety. The SR223 (Gwynn’s Island) Bridge is the only land-based method for access on and off Gwynn’s Island, therefore, placing the bridge in the open position to perform extensive bridge maintenance would adversely affect residents on the island.

The Coast Guard is issuing this rule under authority in 33 U.S.C. 499.

IV. Discussion of Comments, Changes and the Temporary Final Rule

The Coast Guard provided a comment period of 16 days and no comments were received. No changes were made to the regulatory text of this temporary final rule.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is a result of pre rulemaking coordination with maritime stakeholders including federal agencies. This proposed rule effectively balances the competing interests of land and maritime transportation.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be

small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175,

Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security
Delegation No. 0170.1.

2. Effective December 23, 2022, through April 15, 2023, add §117.1017T to read as follows:

§ 117. 1017T Milford Haven.

The draw of the SR223 (Gwynn's Island) Bridge, mile 0.1, in Hudgins, need not be open for vessels.

Dated: November 10, 2022.

S. N. Gilreath
Rear Admiral, U.S. Coast Guard
Commander, Fifth Coast Guard District

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